

EXHIBIT 82

THE HONORABLE THOMAS S. ZILLY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

HUNTERS CAPITAL, LLC, et al.,

Plaintiffs,

v.

CITY OF SEATTLE,

Defendant.

Case No. 20-cv-00983

PLAINTIFFS ANSWERS AND
RESPONSES TO DEFENDANT CITY OF
SEATTLE'S SECOND DISCOVERY
REQUESTS AND PROPOSED
REVISIONS TO FIRST DISCOVERY
REQUESTS

Pursuant to Rules 26, 33, and 34 of the Federal Rules of Civil Procedure, Plaintiffs 12th & Pike Associates LLC, Argento LLC, Bergman's Lock and Key Services LLC, Hunters Capital LLC, Madrona Real Estate Investors IV, LLC, Madrona Real Estate Investors VI, LLC, Madrona Real Estate Services, LLC, Northwest Liquor and Wine LLC, Olive St. Apartments LLC, Onyx Homeowners Association, Matthew Ploszaj, Rancho Bravo, Inc., Redside Partners, The Richmark Company d/b/a Richmark Label, Shuffle LLC d/b/a Cure Cocktail, SRJ Enterprises dba Car Tender, Sway and Cake LLC, and Wade Biller ("Plaintiffs") hereby respond and object to Defendant City of Seattle's ("Defendant" or the "City") Second Discovery Requests. No admissions of any nature whatsoever are implied or should be inferred from the answers, responses, and objections set forth below. Plaintiffs have answered these requests based on their current knowledge and understanding with respect to the matters addressed. Discovery in this

PLAINTIFFS' ANSWERS AND RESPONSES TO
DEFENDANT CITY OF SEATTLE'S SECOND
DISCOVERY REQUESTS
Case No. 20-cv-00983 - 1

LAW OFFICES
CALFO EAKES LLP
1301 SECOND AVENUE, SUITE 2800
SEATTLE, WASHINGTON 98101
TEL, (206) 407-2200 FAX, (206) 407-2224

INTERROGATORIES

INTERROGATORY NO. 3 [AMENDED]:

As to the matters described in your complaint, please identify each statute or ordinance that the City failed to abide.

ANSWER:

Plaintiffs object that this is a contention interrogatory, asked at the commencement of discovery. Plaintiffs further object that the distinction between “failed to abide” and “was not enforced” as used in amended Interrogatory No. 4 is vague and ambiguous. Plaintiffs also object that this interrogatory is not clearly delineated as to time or space. However, Plaintiffs have agreed to answer this question at this stage of this case, in the interests of compromise, to the best of their ability. Plaintiffs reserve the right to amend or supplement this answer as discovery progresses.

Plaintiffs currently contend that the City was affirmatively required to act, but failed to act as required between at least June 8, 2020 and July 1, 2020, under at least the following statutes or ordinances:

1. Seattle Municipal Code (“SMC”) 10.02, Civil Emergencies
2. SMC 11.25, Parade Permits
3. SMC 15.52, Crowd Control Events

INTERROGATORY NO. 4 [AMENDED]:

As to the matters described in your complaint, please identify each statute or ordinance that you contend was not enforced by the City.

ANSWER:

Plaintiffs object that this is a contention interrogatory, asked at the commencement of discovery. Plaintiffs further object that the distinction between “was not enforced” and “failed to abide” as used in amended Interrogatory No. 3 is vague and ambiguous. Plaintiffs also object that

1 this interrogatory is not clearly delineated as to time or space. However, Plaintiffs have agreed to
 2 answer this question at this stage of this case, in the interests of compromise, to the best of their
 3 ability. Plaintiffs reserve the right to amend or supplement this answer as discovery progresses.

4 Plaintiffs respond that between June 8, 2020, and at least July 1, 2020, the City did not
 5 enforce *any* laws within the area in question, and for many months thereafter continued to refuse
 6 to enforce certain laws in the area, including especially in Cal Anderson Park. Plaintiffs note that
 7 while the list of ordinances and statutes the City failed to enforce is nearly unlimited, and possibly
 8 involves the entire criminal code of both the City and the State of Washington, the ordinances and
 9 statutes the City failed to enforce included at least the following:

- 10 1. SMC 10.02, Civil Emergencies
- 11 2. SMC 10.07, Graffiti Nuisance Code
- 12 3. SMC 11.25, Parade Permits
- 13 4. SMC 12A subsections:
 - 14 a. .06.025 Fighting
 - 15 b. .06.030 Menacing
 - 16 c. .08.020 Property Destruction
 - 17 d. .08.030 Reckless Burning
 - 18 e. .08.040 Criminal Trespass
 - 19 f. .08.060 Theft
 - 20 g. .12.010 Disorderly Conduct
 - 21 h. .12.015 Pedestrian Interference
 - 22 i. .14.071 Aiming or Discharging a Firearm
 - 23 j. .14.075 Unlawful Use of Weapons to Intimidate Another
 - 24 k. .14.083 Weapons in Public Places
 - 25 l. .14.140 Unlawful Carrying of a Pistol

m. .16.010 Obstructing a Public Officer

5. SMC 15.02, Street Ordinance / General Provisions

6. SMC 15.04, Use and Occupation Permits

7. SMC 15.52, Crowd Control Events

8. SMC 15.90, Enforcement

9. SMC 18.12, Parks Code

10. SMC 25.08, Noise Control

11. Revised Code of Washington ("RCW") 7.48.140, Public Nuisances

12. RCW 9A.46.020, Harassment

13. RCW 9A.48.020, .030, Arson

14. RCW 9A.48.040 to .060, Reckless Burning

15. RCW 9A.48.070 to .100, Malicious Mischief

16. RCW Chapter 9A.52, Burglary and Trespass

17. RCW 9A.84.010, Criminal Mischief

18. RCW 9A.84.030, Disorderly Conduct

19. RCW 9A.84.020, Failure to Disperse

20. RCW 9A.76.020, Obstructing a Law Enforcement Officer

21. RCW 46.61.250, Pedestrians on Roadway

INTERROGATORY NO. 5 [PROPOSED AMENDED]:

As to the matters described in your complaint, please identify any ways in which the City misled you into believing a danger had been removed or deprived you of the possibility of help from other sources.

ANSWER:

Plaintiffs objected to the original Interrogatory No. 5 as a contention interrogatory and did

questions of each Plaintiff at depositions which are presently underway.

INTERROGATORY NO. 7 [PROPOSED AMENDED]:

As to the matters described in your complaint, please identify every way in which the City acted in a proprietary capacity rather than a governmental capacity, meaning every way in which the City engaged in business-like activities that are normally performed by private enterprise.

ANSWER:

Plaintiffs objected to the original Interrogatory No. 7 as a contention interrogatory and did not agree to answer this amended interrogatory. As Plaintiffs have previously explained, this remains an impermissible contention interrogatory at an early stage of the case, despite the changing of the language, and it remains vague and as to “proprietary capacity” and governmental capacity,” as well as “business-like activities that are normally performed by private enterprise.” As Plaintiffs have also indicated, this interrogatory appears to seek answers relevant to a legal theory, about which the City has declined to provide any guidance or law that might assist Plaintiffs in understanding what the City actually wants to know. As Plaintiffs have now stated on multiple occasions, Plaintiffs are willing to consider a revised, clarified, and narrowed question.

INTERROGATORY NO. 9:

Please identify, by address, the specific location of every property or business for which you claim damages in this action. Please specify the amount of your damage claim that is associated with each specific location identified.

RESPONSE TO INTERROGATORY NO. 9:

Plaintiffs object that a full and complete answer to this interrogatory requires complete discovery, as well as specialized and expert testimony and analysis, which is not required to be disclosed under the current case schedule for several months. Plaintiffs further object that this

interrogatory is a contention interrogatory asked well in advance of the close of discovery. However, Plaintiffs will give – and in most instances have already given - preliminary estimates of their damages. Plaintiffs note that the damages discussed below are for out-of-pocket expenses and lost income. Plaintiffs have not separately stated amounts for damages due to nuisance, constitutional rights, or other amounts that are subject to valuation by finders of fact. Plaintiffs expressly reserve the right to revise these estimates based on discovery, subsequent events, and expert testimony.

ANSWER AS TO ARGENTO LLC:

Café Argento is located at 1125 E Olive Street. Argento LLC's preliminary estimate of damages due to the events in this case is \$68,950.

ANSWER AS TO BERGMAN'S LOCK AND KEY SERVICES LLC:

Bergman's Lock and Key is located at 1714 12th Avenue. A preliminary estimate of damages has been produced at CHOP 0008655. The City has also deposed Bergman's about that estimate.

ANSWER AS TO HUNTERS CAPITAL LLC:

The following property locations are at issue in this suit:

The Ballou Wright Building	1517 12 th Avenue
The Broadway Building	1620 Broadway
The Pike Building	1000 E. Pike Street
The 900 Pine Building	900 E. Pine Street
The Dunn Motors Building	501 E. Pike Street
The Greenus Building	500 E. Pike Street
The Colman Building	401 E. Pine Street

A preliminary estimate for each of these properties has been produced at CHOP 0007739.

ANSWER AS TO MADRONA REAL ESTATE INVESTORS IV, LLC, MADRONA REAL ESTATE INVESTORS VI, LLC, MADRONA REAL ESTATE SERVICES, LLC, AND 12TH & PIKE ASSOCIATES:

The following property locations are at issue in this suit:

12 th & Pike Associates, LLC	1122 E Pike Street
Madrona Real Estate Investors VI, LLC	1310 E Pike Street
Madrona Real Estate Investors, IV, LLC	1316 E Pike Street
Madrona Real Estate Services, LLC	1320 E Pike Street

A preliminary estimate of damages for each is as follows:

12 th & Pike Associates, LLC	\$166,426.08
Madrona Real Estate Investors VI, LLC	\$13,852.87
Madrona Real Estate Investors, IV, LLC	\$17,428.14
Madrona Real Estate Services, LLC	\$12,109.23

Plaintiffs have produced a spreadsheet identified by each entity regarding these calculations at CHOP 0008704 to CHOP 0008706; CHOP 0008736 to CHOP 0008738; CHOP 0008760 to CHOP 0008762; and CHOP 0008786 to CHOP 0008788.

ANSWER AS TO NORTHWEST LIQUOR AND WINE LLC:

Northwest Liquor and Wine is located at 1605 12th Avenue. Northwest Liquor and Wine preliminarily estimates its damages as \$357,382.

ANSWER AS TO OLIVE ST APARTMENTS LLC:

The Olive Street Apartments are located at 1111 East Olive Street. Damage information has been produced at CHOP 0004900 and CHOP 0008227.

ANSWER AS TO ONYX HOMEOWNERS ASSOCIATION:

The Onyx Condominiums are located at 1125 E. Olive Street. Onyx Homeowners Association preliminarily estimates its damages as \$9,505.31.

1 **ANSWER AS TO MATTHEW PLOSZAJ:**

2 Matthew Ploszaj lives in an apartment at 1210 E. Pine Street. He preliminarily estimates
3 his damages are \$50,000.

4
5 **ANSWER AS TO RANCHO BRAVO, INC.:**

6 The Rancho Bravo Tacos location at issue in this lawsuit is located at 1001 E. Pine Street.
7 A preliminary estimate of damages has been produced as CHOP 0004976.

8
9 **ANSWER AS TO REDSIDE PARTNERS:**

10 Redside Partners manages the Oddfellows building at 915 E. Pine Street, as well as
11 buildings at 1715 12th Ave. and 1323 E. Pine Street. Redside preliminarily estimates its damages
12 as \$10,000.

13
14 **ANSWER AS TO THE RICHMARK COMPANY DBA RICHMARK LABEL:**

15 Richmark is located at 1110 E. Pine Street. It also owns the location occupied by Northwest
16 Liquor and Wine. A preliminary estimate of damages has been produced at CHOP 0006423.

17
18 **ANSWER AS TO SHUFFLE LLC DBA CURE COCKTAIL:**

19 The Cure Cocktail location for which damages are sought in this suit was located at 1641
20 Nagle Place. Cure Cocktail preliminarily estimates that its damages for that location are \$397,443.
21 A spreadsheet detailing these amounts has been produced at CHOP 0008835.

22
23 **ANSWER AS TO SRJ ENTERPRISES DBA CAR TENDER:**

24 Car Tender was formerly located at 1716 12th Avenue. A preliminary estimate of damages
25 for that location has been produced at CHOP 0005389. Plaintiffs anticipate providing an updated

estimate prior to deposition.

ANSWER AS TO SWAY AND CAKE LLC:

Sway and Cake is located at 1124 E. Pike Street. A preliminary estimate of damages for that location and support for that has been produced at CHOP 0005395. The City has also deposed Sway and Cake about that preliminary estimate.

ANSWER AS TO WADE BILLER:

Wade Biller is a resident of the Onyx Condominiums. Documentation of his personal out-of-pocket damages has been produced at CHOP 0004968 – 0004975. In addition, Mr. Biller has suffered emotional and physical distress.

DATED this 10th day of May, 2021.

CALFO EAKES LLP

By /s/ Tyler S. Weaver

Patricia A. Eakes, WSBA #18888

Angelo J. Calfo, WSBA #27079

Tyler S. Weaver, WSBA #29413

Andrew DeCarlow, WSBA #54471

Henry Phillips, WSBA #55152

1301 Second Avenue, Suite 2800

Seattle, WA 98101

Phone: (206) 407-2200

Fax: (206) 407-2224

Email: pattye@calfoeakes.com

angeloc@calfoeakes.com

tylerw@calfoeakes.com

andrewd@calfoeakes.com

henryp@calfoeakes.com

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I, Lixi Aylin Colmenero, declare that I am employed by the law firm of Calfo Eakes LLP, a resident of the State of Washington, over the age of eighteen (18) years, not a party to the above-entitled action, and competent to be a witness herein.

On May 10, 2021, I caused a true and correct copy of the foregoing document to be served on counsel listed below in the manner indicated:

PETER S. HOLMES

Seattle City Attorney

Joseph Groshong, WSBA #41593

Assistant City Attorneys

Seattle City Attorney's Office

701 Fifth Avenue, Suite 2050

Seattle, WA 98104

Tel.: (206) 684-8200

Fax: (206) 684-8284

E-mail: Joseph.Groshong@seattle.gov

☐ Via legal messengers

☐ Via first class mail

☐ Via facsimile

☒ Via email, per agreement

☐ Via E-Service

HARRIGAN LEYH FARMER & THOMSEN LLP

Tyler L. Farmer, WSBA #39912

Arthur W. Harrigan, J., WSBA #1751

Kristin E. Ballinger, WSBA #28253

999 Third Avenue, Suite 4400

Seattle, WA 98104

Seattle, WA 98104

Tel.#: (206) 623-1700

Fax#: (206) 623-8717

E-mail: tylerf@harriganleyh.com

arthurh@harriganleyh.com

kristinb@harriganleyh.com

☐ Via legal messengers

☐ Via first class mail

☐ Via facsimile

☒ Via email, per agreement

☐ Via E-Service

s/ Lixi Aylin Colmenero

Lixi Aylin Colmenero